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January 23, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

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Re: Advanced Television Systems
MM Docket No. 87-268

Dear Mr. Caton:

On January 22, 1996, Malrite Communications Group, Inc., filed with the Commission its Reply Comments in MM Docket No. 87-268. It was discovered that, inadvertently, certain errors were contained in the document as filed. Consequently, an original and fourteen copies of a revised set of Reply Comments on behalf of Malrite Communications Group, Inc., are being submitted herewith for filing. It is respectfully requested that the annexed revised Reply Comments be substituted for those which were tendered for filing with the Commission on January 22, 1996.

Should you have any questions concerning the above, please contact the undersigned.

Respectfully submitted,

MALRITE COMMUNICATIONS GROUP, INC.

By: 

Irving Gastfreund

Enclosures

BEFORE THE
Federal Communications Commission

WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Advanced Television Systems) MM Docket No. 87-268
And Their Impact Upon The)
Existing Television Broadcast Services)

TO: The Commission

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REPLY COMMENTS

MALRITE COMMUNICATIONS GROUP, INC. ("Malrite"), by its attorneys, pursuant to Sections 1.415 and 1.419 of the Commission's Rules, hereby submits its instant Reply Comments to the Commission's Fourth Further Notice Of Proposed Rule Making and Third Notice Of Inquiry, 10 FCC Rcd 10540 (1995) ("NPRM").¹

I. Interest of Malrite In This Proceeding

Malrite is the licensee of Television Stations WXIX-TV, Newport, Kentucky (operating in the Cincinnati, Ohio television market); and WFLX-TV, West Palm Beach, Florida. In addition, Malrite is the controlling shareholder of Malrite of Ohio, Inc., licensee of Television Station WOIO(TV), Shaker Heights, Ohio (which operates in the Cleveland, Ohio television market). Moreover, Malrite of Ohio, Inc., has entered into a Local Marketing Agreement with the

¹ By Order Granting Extension Of Time For Filing Reply Comments, __ FCC Rcd __, DA 96-8 (Mass Media Bureau, January 11, 1996), the deadline for the filing of reply comments in this proceeding was extended to January 22, 1996. Accordingly, Malrite's instant Reply Comments re timely filed.

licensee of Television Station WUAB(TV), Channel 43, Lorain, Ohio, pursuant to which Malrite provides programming for broadcast on WUAB(TV). Moreover, Malrite is the controlling stockholder in Estrella Brillante, Inc., which is the controlling General Partner of Estrella Brillante Limited Co-Partnership, which is the licensee of Television Stations WLII-TV, Caguas, Puerto Rico; and WSUR-TV, Ponce, Puerto Rico. Based on its ownership or control of these five television stations, Malrite has a significant interest in the Commission's determinations in this rulemaking proceeding. The Commission's resolution of the issues in this proceeding will have profound consequences for the future of television broadcasting in this country. Malrite's experience with the matters here under consideration and its instant Comments will thus be of material assistance to the Commission in resolving this rulemaking proceeding.

II. Comments

In its NPRM, the Commission solicited further comment on various issues relating to Advanced Television (“ATV”), including the forthcoming transition to digital broadcast television.

The Commission’s NPRM sets forth the following goals for this proceeding:

1. Preserving a free, universal broadcast service;
2. Fostering an expeditious and orderly transition to digital technology that will allow the public to receive the benefits of digital television while taking into account consumer investment in NTSC television sets;

3. Managing the spectrum to permit the recovery of contiguous blocks of spectrum so as to promote spectrum efficiency and to allow the public the full benefit of its spectrum; and
4. Ensuring that the spectrum -- both ATV channels and recovered NTSC channels -- will be used in a manner that best serves the public interest.

NPRM, supra, 10 FCC Rcd at 10541 ¶6.

While these are appropriate goals, unfortunately, the debate on ATV appears to have shifted in recent months with a view toward revisiting the basic underlying premises that underlie our system of free over-the-air broadcast television. At this very moment, there are calls in Congress and in other quarters to auction off the transitional ATV spectrum. Unfortunately, it seems as if these revenue-enhancement issues have taken center-stage in the policy debate on ATV. The proper focus of the Commission's policy inquiries in this proceeding should be how best to effectuate the transition of broadcast television service from the analog mode to the digital mode as quickly as possible, with a minimum of disruption to the public while fostering the continuation of a free, competitive, universal over-the-air television broadcast system.

Preservation of free, universal, local over-the-air broadcast television must be reemphasized as a paramount national policy. For these reasons, Malrite supports the comments of numerous other broadcasters in this proceeding who have endorsed adoption of the following policies regarding implementation of ATV:

1. Initial ATV assignments should be paired with existing NTSC licenses and should be assigned to existing broadcasters, not as a new license, but, rather, as a modification of the existing NTSC license to conform to the upgraded ATV service.

2. Eligibility for paired ATV channels should be based on existing terms of eligibility for NTSC channels;

3. Full-time simulcasting of NTSC programming should be phased in on the transitional digital ATV channel; and

4. NTSC spectrum should be returned at a future date.

In addition, Malrite supports other commenters who have suggested that, if the Commission requires broadcasters to make the transition to digital systems, it should exercise its power under the All Channel Receiver Act to require TV set manufacturers to make all television sets sold after a date certain capable of receiving and displaying digital broadcast transmissions. After such a date, every NTSC-only television set should be packaged with a warning that it is incapable of receiving broadcasts without modifications.

III. Conclusion

The future of free, over-the-air broadcast television is at stake in this proceeding, and the Commission must be mindful of this fact. Proper transition to ATV systems will necessitate a

recognition by the Commission and other lawmakers that the future of free over-the-air television must not be sacrificed on the alter of the current budget debate.

Respectfully submitted,

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January 22, 1996